

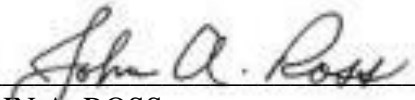
Fed.R.Civ.P. 35(a)(1). Plaintiff argues he requires an independent physical examination to disprove Defendants' claim that he does not suffer from chronic kidney disease and does not require hernia surgery or a colonoscopy.

Although a district court, pursuant to Rule 35, may, under appropriate circumstances, order a party to submit to a physical examination at the request of an opposing party, Rule 35 does not vest the court with authority to appoint an expert to examine a party on his own motion. Callegari v. Lee, 2011 WL 175927, at *7 (N.D. Cal. Jan. 19, 2011) (citing Smith v. Carroll, 602 F.Supp.2d 521, 526 (D.Del. 2009)). See also, Jenkins v. Doe, 2011 WL 121682, at *1 (D.Conn. 2011) (Rule 35 does not authorize a party to file a motion for his own physical examination.); Baker v. Hatch, 2010 WL 3212859 at *3 (E.D.Cal. Aug. 12, 2010) (finding no authority under Rule 35(a) to grant pro se prisoner plaintiff's request for medical examination); Adams v. Epps, 2008 WL 4861926 at *1 (S.D.Miss. Nov. 10, 2008) (same); Cabrera v. Williams, 2007 WL 2682163 at *2 (D.Neb. Sept.7, 2007) (same); Green v. Branson, 108 F.3d 1296, 1304 (10th Cir. 1997) (court denied plaintiff's request for his own physical examination, finding his primary purpose in seeking the exam was to obtain medical treatment and to complain of deliberate indifference to his medical needs.) Obtaining evidence to prove his case is Plaintiff's responsibility, not the government's. Flakes v. Frank, 2005 WL 1114529, at *1 (W.D. Wis. May 6, 2005).

Accordingly,

IT IS HEREBY ORDERED that Plaintiff's Motion For Medical Examination [45] is **DENIED**.

Dated this 23rd day of July, 2013.



JOHN A. ROSS
UNITED STATES DISTRICT JUDGE